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RECENT CASE NOTES

CARRIERS—VALIDITY OF REGULATION REQUIRING CLAIM FOR PERSONAL INJURIES TO BE MADE BY PASSENGER WITHIN THIRTY DAYS.—The plaintiff while riding on a drover's pass was injured by the negligence of the defendant carrier. A clause in the contract of carriage provided that the carrier should be released from liability for injury to the plaintiff, unless he or his personal representative gave notice in writing within thirty days after the injury. The plaintiff, having failed to give notice within the time prescribed, sued for damages. *Held*, (three justices *dissenting*) that the regulation was reasonable, and that the failure to give notice within thirty days precluded a recovery. *Gooch v. Oregon Short Line Ry.* (1922) 42 Sup. Ct. 192.

In the absence of a controlling statute, carriers are privileged to make regulations which are reasonable. *Burge v. Georgia Ry. & Elec. Co.* (1909) 133 Ga. 423, 65 S. E. 879. The extent of the business and the difficulty of investigating old claims make time limitations as to notice of claims reasonable. *Georgia, Fla. & Ala. Ry. v. Blish Milling Co.* (1915) 241 U. S. 190, 36 Sup. Ct. 541. Such notice is a condition precedent to the carrier's duty to pay damages. *St. Louis, I. M. & S. Ry. v. Starbird* (1916) 243 U. S. 592, 37 Sup. Ct. 462. The Cummins Amendment to the Interstate Commerce Act provided that it should be unlawful, in case of damage to goods, for a common carrier to require notice to be given within a shorter period than ninety days. Act of March 4, 1915 (38 Stat. at L. 1196, 1197), re-enacted in Act of Feb. 28, 1920 (41 Stat. at L. 456, 494). Congress, however, has made no provision for notice of claim in the case of personal injuries. A caretaker of live stock travelling on a drover's pass has the status of a passenger and can recover for an injury caused by the carrier's negligence. *Ry. v. Lockwood* (1873, U. S.) 17 Wall. 357; *Norfolk Southern Ry. v. Chatman* (1917) 244 U. S. 276, 37 Sup. Ct. 499. The requirement in the instant case was held valid and unaffected by the Cummins Amendment because less time is needed for the notice of claims for personal injuries than is deemed proper for goods. A further reason given by the court was that a record is kept of goods, and not of passengers, and therefore, in the latter case, fraud would be common unless the period in which to present claims is more limited. It is submitted, however that it is unreasonable to make it more difficult to recover for injuries to the person than for injuries to goods. There seems to be less likelihood of fraudulent claims in the former than in the latter case. Goods are unpacked when out of the carrier's possession, while personal injuries usually occur in the presence of the agents of the carrier. Congress did not specifically provide for the situation involved in the instant case and it appears to be the first of its kind to come before the courts. It is to be expected that the railroads will immediately take advantage of this decision by printing a "thirty-day" limitation on their tickets. This result should be anticipated by a statutory prohibition of a shorter period than at least ninety days.

CONTRACTS—AUCTIONS—BID RECEIVED AT PUBLIC SALE OPERATES AS OFFER.—The Secretary of the Navy offered a yacht for sale to the highest bidder. Levinson and Johnson submitted bids. Levinson's bid having been accepted as the highest, a bill of sale was delivered to him. Thereafter it was discovered that Johnson's bid, which had been mislaid, was actually the highest. Possession of the boat was never given to Levinson. The Secretary of the Navy filed a bill to determine the rights of the parties. *Held*, (one judge *dissenting*) that there was